

Agenda Item No. 3.1.a
For Agenda of Jan. 23, 2007



Tigard City Council Meeting Minutes

Date: December 12, 2006
Time: 6:30 p.m.
Place: Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon

Attending: Council President Nick Wilson Presiding
Councilor Sally Harding
Councilor Sydney Sherwood
Councilor Tom Woodruff

Absent: Mayor Craig Dirksen

Agenda Item	Discussion & Comments	Action Items (follow up)
Study Session	<p>➤ City Attorney Review</p> <p>City Attorney Ramis thanked the Council for the opportunity to represent the City the past interesting and challenging year. He noted that there were no rate increases this year and said the major area of spending is in land use and development, about 30% of total costs. He said spending was within 20-30 hours of the historical average. He brought information about legal spending by other Oregon cities. He said significant matters were Billboards, LUBA Appeals, Bull Mountain Annexation, Urban Renewal and Real Estate. Future trends include Measure 37 claims and other related land use issues.</p> <p>Council President Wilson asked about the loss to the firm caused by Gary Firestone taking a job as Newport's City Attorney and how it would affect the City.</p> <p>City Attorney Ramis said it is an opportunity for him to work more directly with Tigard. He said they are recruiting for a replacement.</p> <p>Gretchen Buehner suggested getting someone who can translate legal terms into English for City board and commission members.</p> <p>➤ Report on Gas Tax Town Hall Meetings</p> <p>Engineer Duenas reported there have been two lightly attended open houses. Good questions were asked by citizen attendees and his impression was that comments were generally favorable. One citizen commented that</p>	

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	<p>the City might be short-sighted by not making the tax last as long as 20 years in order to take care of even more Highway 99 problems.</p> <p>Councilor Woodruff asked what the process would be if someone wants to take this to a vote. City Attorney Ramis said he would check the statute.</p> <p>Councilor Sherwood stressed the importance of getting the word out that this is targeted for specific projects in response to issues people often complain about. Gretchen Buehner suggested having someone report on the history of this strategy to make sure the public knows it came from citizens; it was not a top-down process.</p> <p>Council agreed to go ahead with the public hearing at the December 19, 2006 Council meeting</p> <p>➤ Review Reallocation of 72nd Ave. Culvert Funds for Regional Stormwater Treatment Facility</p> <p>Engineer Gus Duenas said that as part of the work OTAK is doing on the Commercial Street streetscape project there is an opportunity to do a regional stormwater treatment facility. He gave everyone a map showing the area under discussion. Within their existing contract OTAK must design stormwater treatment for Commercial Street but staff is suggesting, in order to treat as much stormwater as possible, they design a regional treatment facility.</p> <p>Engineer Duenas said \$100,000 is budgeted for the 72nd Avenue culvert project but there is a timing issue and the City won't be able to use those funds by the end of the year. Engineer Duenas said staff proposes reallocating \$35,000 to the Commercial Street project for OTAK to design a regional treatment facility. A regional facility will be able to handle much more water before it reaches Fanno Creek. He said this proposed reallocation is on the consent agenda tonight.</p> <p>➤ Tree Board Discussion:</p> <p>City Manager Prosser gave a synopsis of correspondence received from two Tree Board members. Community Development Director Coffee said there was some confusion on a board's role and responsibilities. He noted that the position of Arborist was vacant and would be advertised after the holidays. He said it was the conclusion of both Community Development and Public</p>	

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	<p>Works that the position should be in Community Development.</p> <p>Councilor Woodruff said he wanted to avoid the public perception that the arborist is working too cozily with the developers.</p>	
Administrative Items	<ul style="list-style-type: none"> ➤ Council agreed that the January 9, 2007 Council meeting could have a consent agenda. ➤ Written testimony was received today from Cheryl Capelli for Agenda Item 5 - Legislative Public Hearing – Development Code Amendment (DCA) 2006-00005. Historic Overlay Conditional Use Code Amendment. 	
Business Meeting	<ul style="list-style-type: none"> 1.1 Council President Wilson called the City Council and the Local Contract Review Board to order at 7:35 p.m. 1.2 Council Present: Council President Wilson, Councilors Harding, Sherwood, and Woodruff. Council Absent: Mayor Dirksen 1.3 Pledge of Allegiance 1.4 Council Communications & Liaison Reports: Councilor Sherwood said she had communication about the National League of Cities but suggested postponing discussion until the end of the meeting. 1.5 Call to Council and Staff for Non-Agenda Items: None 	
2. Citizen Communication	<ul style="list-style-type: none"> ➤ Tigard High School envoy Jasmina Disdarevik presented an update on recent Tigard High School activities. A copy of her report is on file in the City Recorder's office. <p>Councilor Sherwood expressed her thanks for all the cans of food collected by Tigard High School students for the food banks.</p>	

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	<p>➤ Webelo Boy Scout Troop 232 was present at the meeting as part of their work on the Citizenship Badge. They asked Council three questions:</p> <p>1) How does the City of Tigard government work and how many people work for the City? Council President Wilson responded that he hopes it is working well. He said there were 300 people working for the City, including police officers, librarians, public works people, planners, administrative people and others. Councilor Sherwood said the City Council meets together and makes policies for City staff to follow in order to meet our goals. She said the Council represents the people who live in Tigard.</p> <p>2) Why is there so much development in Tigard? Council President Wilson said there has been a lot of growth in Tigard because there has been a lot of growth in the entire Portland area, and more people are expected to come. He said recent statistics show that 1/3 of all homes in Tigard were built since 1990.</p> <p>3) What is the Mayor's most important responsibility? Council President Wilson said he feels the most important thing is representing the 45,000 people in Tigard. He said it is a serious responsibility to carry out their wishes. Councilor Sherwood said the Mayor is like their Scout pack leader, who keeps them in line and makes sure they are doing a good job.</p> <p>Council President Wilson presented each Scout with a City of Tigard pin.</p> <p>➤ Follow-up on Previous Citizen Communication:</p> <p>Council President Wilson read a statement in response to a petition that was presented at the November 28, 2006 Council meeting regarding the Lukas Glenn incident.</p> <p>Council President Wilson said, "At the Council meeting of November 28, 2006, there were petitions presented to the Council requesting we hold a public hearing about the events surrounding the Lukas Glenn shooting. According to our practice, items addressed during the 'open citizen communication' portion of the meeting are brought back to the next regular Council meeting for a report of the status of the communication. Tragic events of September 19th have touched many people in the community. We have reviewed the petitions and met with representatives of the petitioners along with the Chief of Police and our Assistant City Manager. This event</p>	

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	<p>occurred outside the City limits of Tigard and Tigard Police were called in as backup. We have determined it is not appropriate for the City Council to hold a public meeting. We want to again extend our sympathy to the family and friends of Lukus Glenn.”</p> <p>Council President Wilson noted that two people had signed up to speak during Agenda Item No. 2 - Citizen Communication but indicated they wished to speak on Agenda Item 4. He understands that their topic is traffic in general but advised them that speaking about Agenda Item 4 now instead of later means they would give up some rights to appeal because it would not be a part of the public record for Agenda Item 4. He called their names and asked if they still wanted to testify.</p> <p>➤ Jim Long, 10230 SW 72nd, Tigard, OR 97223, spoke about a long-standing traffic issue near the corner of 72nd Avenue and Spruce Street. He said neighbors witness blatant disregard for traffic laws. The stop signs are not observed and residents have trouble getting out of their driveways. He invited City officials to observe this and do something about it. He suggested the City come up with a way to make a photo radar stop sign.</p> <p>➤ Norma Harris, 10700 SW 72nd, Tigard, OR 97223, said, “Stop means pause” at the intersection behind Fred Meyer. She has lived in the area for over 15 years and has observed the problem getting increasingly worse.</p> <p>Councilor Woodruff asked if the citizens had brought this to the attention of the police directly. Mr. Long said there was a letter written a few years ago to the Police Chief and, he believed, the Mayor.</p> <p>Council President Wilson said they will come back with a response at a future Council meeting. City Manager Prosser said the Police Chief will be asked to contact them directly.</p> <p>➤ Noreen Gibbons, 10730 SW 72nd Avenue, Tigard, OR, 97223, said she was the one who wrote the letter mentioned by Mr. Long and felt the response received from the police was unsatisfactory. With a daycare being proposed as part of a proposed annexation she is very concerned that it is a tragedy waiting to happen.</p> <p>Council President Wilson asked if there was anyone else who wished to speak on any issue not on the agenda. There was none.</p>	

3. Consent Agenda	<p>Council President Wilson reviewed the Consent Agenda before the City Council:</p> <p>3.1 Receive and File:</p> <p>a. Canvass of Votes for City of Tigard Relating to the Election on November 7, 2006</p> <p>b. Council Calendar</p> <p>c. Council Meeting Tentative Agenda</p> <p>3.2 Approve Reallocation of Healthy Streams Project Funding from a 72nd Avenue Culvert Project for Design of the Proposed Commercial Street Regional Stormwater Treatment Facility</p> <p>3.3 Local Contract Review Board:</p> <p>a. Award of Contracts for Environmental Assessment and Remediation Services on an As-Required Basis to AMEC Earth and Environmental, Inc. and GeoEngineers.</p> <p>b. Approve a Contract Amendment to the Commercial Street Design Contract to Create a Regional Stormwater Treatment Facility with OTAK, Inc.</p> <p>Council President Wilson asked if there were Council members desiring to remove any of these items for separate discussion. There being none he asked for a motion to approve the consent agenda.</p>	<p>Motion by Councilor Sherwood, seconded by Councilor Woodruff, to approve the Consent Agenda.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Council President Wilson Yes</p> <p>Councilor Harding Yes</p> <p>Councilor Sherwood Yes</p> <p>Councilor Woodruff Yes</p>
4.Quasi-Judicial Public Hearing - - Topping Kemp Zone Change Annexation (ZCA) 2006-00003	<p>City Attorney Ramis said hearings on annexation matters are conducted as judicial matters and so anyone wishing to participate understands the process, he read through the rules. He noted that copies of the hearing rules of procedure were available at the entrance. A copy is also available in the City Recorder's office.</p> <p>Council President Wilson opened the public hearing.</p> <p>City Attorney Ramis asked if any members of Council wished to report any ex parte contact or information gained outside the hearing, including any site visits. The Council indicated there was none.</p> <p>City Attorney Ramis asked if all Council members had familiarized themselves with the application. The Council said they had.</p> <p>City Attorney Ramis asked the audience if there were any challenges pertaining to the Council's jurisdiction to hear this matter, or if there was a challenge to any Council member's participation.</p>	<p>Councilor Sherwood moved for adoption of Ordinance No. 06-19 and Councilor Woodruff seconded.</p> <p>City Attorney Ramis recommended Council exclude the emergency clause from the Ordinance.</p> <p>Councilor Sherwood moved for adoption of Ordinance No. 06-19 without the emergency clause. Councilor Woodruff seconded the motion. The revised motion was approved by a unanimous vote of Council present.</p> <p>Council President Wilson Yes</p> <p>Councilor Harding Yes</p> <p>Councilor Sherwood Yes</p> <p>Councilor Woodruff Yes</p>

	<p>➤ James Riggs, 10655 SW 75th Avenue, Metzger, Oregon said, "This notice of public hearing was delivered to my mail three days late, according to ORS land use planning law guidelines. Therefore, this hearing is invalid. I wish you to adjourn until we have a representative of Washington County. This is an issue that concerns a community outside the jurisdiction of Tigard."</p> <p>City Attorney Ramis asked him, "Your position is that the City Council cannot hold a hearing because of the notice issue and second, you have an issue relating to whether the county is present?"</p> <p>Mr. Riggs said, "I have an issue of protocol. In this matter, we have a park in consideration, Metzger Park. This park is supported by the community of Metzger, not by any other entity."</p> <p>City Attorney Ramis said, "My question is that, you're saying that someone from the County needs to be present?"</p> <p>Mr. Riggs said, "Yes, sir. The reason being is that there are a finite number of residents in our community that support this park. When you annex people from our community into the city of Tigard that removes that tax base and shoulders the burden to the remaining residents."</p> <p>City Attorney Ramis said, "We're straying from the substantive evidence, but if we could turn to the jurisdictional question for a moment, my recommendation is that you go ahead and conduct the hearing and take testimony and allow our staff to address the question of notice and its adequacy and if we don't happen to have that information here we can continue the proceeding until you can examine the notice question."</p> <p>He said, "The fundamental rule is that actual notice suffices. So if a person has actual notice, whether or not the actual number of days in the statute was satisfied is really not the question."</p> <p>Mr. Riggs said, "I object to your testimony, Mr. Attorney. I conferred with the County and they said it is very important that you comply with ORS."</p> <p>City Attorney Ramis said, "This is a City proceeding and I respect that. That's why I recommended to Council that we conduct the proceedings so that people who have come here tonight can offer their testimony. But we will then check the status of the notice."</p>	<p>Councilor Wilson asked that staff follow up on the question about how this impacts the local improvement district for the park.</p>
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	<p>Council President Wilson said, "The question here is, are there any challenges pertaining to the Council's jurisdiction?"</p> <p>Mr. Riggs said, "This is a challenge."</p> <p>Council President Wilson said, "Yes, but it's not about the jurisdiction of the Council to annex... This is an annexation to the City; it's not a withdrawal from the County."</p> <p>Mr. Riggs said, "When you annex to the City it removes property from the community of Metzger, am I wrong?"</p> <p>Council President Wilson said, "Well, yes, because there is no formal community of Metzger. It's not a jurisdictional boundary. You have a local improvement district that finances the park but I don't think that this annexation would withdraw it from the local improvement district."</p> <p>Planner Eng said she would check into whether this removes these properties from the LID.</p> <p>Council President Wilson asked the audience if there were any other challenges to the jurisdiction of the Council. There were none.</p> <p>Planner Eng gave the staff report. She said this annexation had nine petitioners and that all land owners are registered voters within the proposed territory and consented to annexation. She said the proposed annexation would add 1.81 acres of land to the City of Tigard. Three parcels are zoned Office/Commercial and one parcel is zoned R-5 through Washington County. Upon annexation three parcels will be zoned Professional/Commercial and one parcel will be zoned R-4.5. The proposed territory is contiguous to the City's boundary. She said staff notified all residents and interested parties and received no written objections. Applicants Topping and Kemp propose to build a preschool on one parcel. Existing single-family homes will remain on the other three parcels. She said the annexation is necessary for the site to connect to City sewer.</p> <p>Assistant Planner Eng said the applicants faced significant administrative obstacles in getting their project on schedule. On behalf of their clients, Westlake Consultants requested that this annexation, if approved, be adopted with an emergency clause so it takes effect immediately.</p> <p>Assistant Planner Eng said staff recommends approval of the annexation and that the ordinance be adopted with the emergency clause. She also noted that the notice was sent</p>	
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within the state requirement of 20 days before the hearing.

PROPONENT TESTIMONY –

➤ Lee Leighton, Westlake Consultants, 15115 SW Sequoia Parkway, Suite 150, Tigard, spoke for his clients, applicants Richard Topping and Katie Kemp. He said the applicants began the process by setting up a pre-application meeting with Washington County. Months later it became clear it was a city sewer line on Spruce Street and City staff insisted that before anything further happened they would have to annex into the City. He said they worked quickly to prepare an annexation request in order to stay on track with their project. This is why they are requesting an emergency clause in the ordinance.

NEUTRAL TESTIMONY –

➤ Jim Long, 10730 SW 72nd Avenue, Tigard OR. Mr. Long said he believed that one of the neighbors contiguous to the property, Nancy Tracy, did not receive a notice. He was also concerned about effects an emergency declaration would have on the ability to appeal a decision. He said he had concerns about the traffic as well as the process.

City Attorney Ramis recommended Council not adopt the emergency clause. He said the City could work with the applicant to expedite applications and process.

Noreen Gibbons had signed up to speak but declined to testify.

Council President Wilson noted that he did not have anyone else signed up to speak but asked Mr. Riggs if he would like to speak at this time.

OPPONENT TESTIMONY -

➤ James Riggs, 10655 SW 75th, Tigard, OR said the property owners near his property have raised their elevations, causing damage to his property.

Mr. Riggs expressed concerns about “the continual chipping away of Metzger by annexation into the City Tigard limits.” He said, “When you take property into your City it takes our tax base away from our park.”

Councilor Sherwood said, “I live in that area... and I think I continue to pay into the Metzger LID, even though I live in the city of Tigard.” I will go back and check my tax statement but I don’t think it has anything to do with the

	<p>legality of these people wanting to be in the City of Tigard.”</p> <p>Council President Wilson said, “We’re not withdrawing you from the County. We all are in the County, so it’s hard for me to imagine that an LID that is valid may change by a change in the city boundaries.”</p> <p>Mr. Riggs approached the Council and showed a map of the proposed annexation area. He indicated that his property is across the street from the proposed annexation property. He asked if the City of Tigard has jurisdiction on his street if the annexation is approved.</p> <p>City Manager Prosser said it didn’t.</p> <p>Councilor Wilson said, “You’d have to annex the street too and we’re not.”</p> <p>Mr. Riggs said that is what he is worried about. He expressed concerns about annexation of his area by Beaverton, Portland and Tigard. He stressed that increased traffic coming through his neighborhood from local schools, Lincoln Center and Washington Square makes it an unsafe location for a preschool.</p> <p>Council President Wilson said no one else had signed up to speak and asked the audience if there was anyone else who would like to testify. There was none.</p> <p>APPLICANT REBUTTAL –</p> <p>➤ Lee Leighton of Westlake Consultants said his clients worked hard to communicate with the residents affected by this project. He said a neighborhood meeting was held when they were embarking on the Washington County process. He said invitations were sent to neighbors within 500 feet regarding the meeting and that this was documented in the record.</p> <p>Referring to the Mr. Long’s question about a neighbor not receiving notice, he said he’d verified with Associate Planner Eng that the name in question does appear on the mailing label file printout. Mr. Leighton said the City fulfilled its responsibility to put that item in the mail.</p> <p>Mr. Leighton said that Mr. Riggs mentioned problems with elevation changes in grading near his property that caused drainage problems. He said City of Tigard staff would allow the applicants to submit their site design for a courtesy review to obtain feedback so the applicants can turn in a complete application as soon as possible. He said</p>	
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	<p>that on this (or any other project site development review) applicants have to demonstrate that they are not creating a downstream drainage problem, using engineering calculations and storm water treatment and detention on the property. He mentioned that the review of any development would have to go through such a City process.</p> <p>Council President Wilson asked for the staff recommendation.</p> <p>Assistant Planner Eng said staff recommended approval of the annexation.</p> <p>Council President Wilson closed the public hearing and asked the Council for any comments or discussion.</p> <p>Councilor Woodruff said, “This is the kind of annexation we are most interested in – where we have people who are contiguous and want to be part of the City.” He said, “It seems like that is what state statutes are written to allow and there’s no one that’s being affected on this property against their will to become a part of Tigard so I am supportive of this.”</p> <p>Councilor Sherwood stated that although annexation is an ugly word, a lot of people come into our city for different reasons, one of them happens to be sewers. She said no one was getting annexed against their will.</p> <p>Council President Wilson said he agreed with the other Council members. He said, “We always apply the zoning closest to the County’s zoning designation so this will not make development happen that otherwise would not have happened. I am also in favor of this annexation.”</p>									
<p>5. Legislative Public Hearing Development Code Amendment (DCA) 2006-00005 - Historic Overlay Conditional Use Code Amendment</p>	<p>City Attorney Ramis explained that this was a legislative public hearing and he would read, prior to the proceeding, a statement about the procedures the City would follow, noting that these were slightly different than those used in a quasi-judicial case. He said a copy of the rules and procedures was available at the entrance of the public hearing room. A copy is also available in the City Recorder’s office.</p> <p>City Attorney Ramis asked the Council if any member wished to report any ex parte contact or information gained outside the hearing including site visits.</p> <p>Councilor Woodruff said he had a conversation with Mr. Quello last summer during his first visit to the property at a reception for Broadway Rose Theater. Councilor</p>	<p>Motion by Councilor Sherwood, seconded by Councilor Woodruff, to go with the Planning Commission’s recommendation and deny the Conditional Use Code amendment.</p> <p>The motion was approved by a 3-1 vote of Council present.</p> <table> <tr> <td>Council President Wilson</td> <td>Yes</td> </tr> <tr> <td>Councilor Harding</td> <td>No</td> </tr> <tr> <td>Councilor Sherwood</td> <td>Yes</td> </tr> <tr> <td>Councilor Woodruff</td> <td>Yes</td> </tr> </table>	Council President Wilson	Yes	Councilor Harding	No	Councilor Sherwood	Yes	Councilor Woodruff	Yes
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	<p>Woodruff said he also talked with three neighbors who called to register their position on this.</p> <p>Councilor Harding said she attended the same reception as Councilor Woodruff. She reported that she received a phone call from Larry Galizio about this matter but did not recall the date.</p> <p>Councilor Sherwood said she visited the Quellos at their house in 2000 and was also at a prior public hearing.</p> <p>Council President Wilson said he was on the Planning Commission when the previous hearing was held and also attended an event held there years ago. He noted that Larry Galizio contacted him by phone recently regarding this matter.</p> <p>City Attorney Ramis asked if all members had familiarized themselves with the application. Council indicated that they had.</p> <p>He asked if there were any challenges from the audience pertaining to the Council's jurisdiction to hear this matter, or if there were any challenges to the participation of any Council member. There were none.</p> <p>Council President Wilson opened the public hearing.</p> <p>Associate Planner Farrelly gave the staff report. He described the eight Tigard historic properties located in residential zones. He said Council directed staff to explore ways owners of historic property could generate income to assist them in preservation, restoration and upkeep. He said one potential way to do this was to allow historic resources to be rented for events and meetings, subject to conditional use standards. He noted that the Planning Commission unanimously recommended denial of this proposed code amendment at a public hearing on November 22, 2006.</p> <p>PROPONENT TESTIMONY:</p> <p>➤ Dan Quello, 16445 SW 92nd Avenue, Tigard, OR, 97224, testified on behalf of the proposed code amendment. He said a community needs places for its people to assemble and celebrate special events. He said if Tigard has a shortcoming, besides traffic woes, it would be a lack of the number of spaces, especially outdoors, available to hold functions and events. He said demand is strong for his award-winning historic home with two-plus acres of Victorian gardens.</p>	
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	<p>Mr. Quello noted that the format of the public hearing doesn't allow for rebuttal so he wanted to respond to prior comments made in the media and at the Planning Commission meeting. He said it is not just about one house – or about making money. He said the benefit would be for the whole community. He said it is about the preservation movement in Tigard and allowing an incentive to help maintain the few historical houses left.</p> <p>He disagreed with comments made about the lack of control over event spacing, noting the proposed use averages out to only 1 ½ events per month.</p> <p>Mr. Quello responded to Planning Commission public hearing testimony about police being summoned to garden weddings by saying that the only police officer to set foot on his property at a wedding was there as a groom. He remarked that Larry Galizio made an appeal during the Planning Commission hearing to have staff and planning commissioners come by and do an on-site inspection. He said, "But then, when he heard that Councilors Sherwood and Woodruff had already been on-site for the Broadway Rose party and were open to exploring ways to use this historic resource, he said, 'Those commissioners should recuse themselves.' Why? Because they were on-site or perhaps because they held a different view than his own. Mr. Galizio cannot have it both ways."</p> <p>He said they've worked hard for 16 years to restore one of Tigard's treasures and would like to share it with the entire community. He said the historic preservation movement is not just about saving important structures; it's about opening them up.</p> <p>➤ Bob Neithammer, 19855 SW Riverwood Lane, Tigard, OR 97224, said he supported this amendment. He said his daughter wanted to get married outdoors and Tigard doesn't offer many places for an outdoor ceremony. He said she was married at the Quello house and he thought it was a beautiful setting. He said he lives three or four blocks away and has never heard noise coming from the Quello House.</p>	
	<p>➤ Dan Mitchell, 16585 SW 92nd Avenue, Tigard, OR 97224, said he moved next door to the Quello's property in 1991, four months before Mr. Quello purchased his property. He said it was in shambles with rotting floors and a carriage house covered in blackberry vines and the Quellos worked hard to restore the property. He has</p>	

	<p>experienced no problem with noise. He said if you want to talk about noise, consider the Balloon Festival. He said his house shakes until 11:00 p.m. during the Balloon Festival and visitors to his house have to pay for parking, but he doesn't complain because it is an important Tigard event. He said he is totally for anything that encourages Dan Quello to maintain the property in its current beautiful condition.</p> <p>➤ Cindy Lehman, 13170 NW Dumar St., Portland, OR 97229, testified in support. She read excerpts from a letter written by Karen Sigworth, an organizer of the Tigard-Tualatin School District's 1st Annual Garden Tour which included the Quello House as one of its destinations. She said one aspect of quality of life is preserving what is beautiful and unique in our community and there is no other property in Tigard like the Quello's. She entered photographs into the record. She said she hoped Tigard's elected officials could find a way to end the impasse that is both sensitive to the neighbors and allows the Quellos to preserve and share their bit of Tigard history.</p> <p>➤ Jenni McGuire Legg, 17410 SW 135th Place, Tigard, OR 97224, testified that she was married at the Quello House and was honored to invite her friends and family to this beautiful home which is part of local history. She noted that her out-of-town wedding guests stayed and ate at local businesses which was good for the community.</p> <p>She added that she can now take her children to the Quello House and hoped the City could come up with a compromise so that other people could enjoy this property.</p> <p>➤ Mark Dahm, 28357 SW Morningside Avenue, Wilsonville, OR 97070, testified. He held his son's wedding reception at the Quello House and said it meant a lot to his family to hold their event among the rolling lawns and ponds at such a serene setting. His guests stayed in local hotels and used local businesses. He complimented the Quello's hospitality and noted that family members still comment on their fond memories of the wonderful time they had on the property.</p> <p>➤ Dan Murphy, 14070 SW Hall Blvd., Tigard, OR 97223, testified. He said the Broadway Rose Theater Company is proud to be a valuable part of Tigard, helping to build a sense of community by providing a gathering place for Tigard residents and beyond, to enjoy. He said the Quello House has the potential to provide Tigard residents a beautiful gathering place to celebrate</p>	
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special occasions. Mr. Murphy said the Quello's opened up their home last summer to host the Theater's cultivation event. He said it was a pleasure to hold such an event inside Tigard, as they have generally gone outside the city for cultivation events in the past. He said few homes in the area offer the same beauty, charm and lush landscaping as the Quello House. He asked that Council consider their request to allow meetings and events in their home as a conditional use.

OPPONENT TESTIMONY:

➤ Cheryl Capelli holds interest in property at 16405 SW 93rd, Tigard OR 97224. Ms. Capelli gave six reasons to deny conditional use, as summarized below. She requested that the Council vote no on the proposed code amendment

- 1) Unfair advantage to one property over others. Conditional use events infringe upon normal use of nearby properties with noise, traffic and litter.
- 2) A "Conditional Use Test" was tried at the Shaver-Bilyeu property for three years and failed to provide for the interests of the public. Public testimony before the Council in 2000 and before the Planning Commission in November 2006 highlighted that three years of "test" events clearly disrupted the home life of neighboring properties.
- 3) Conditional Use is a "sleeping dog." The school, a stadium and park are visible when buying a home in the area. But property use that appears normal, yet impacts neighboring property when summer arrives, impacts neighborhood desirability.
- 4) Current Oregon historical tax relief program has not been proven insufficient. According to Washington County, the Quellos receive special tax treatment since 1994 for the Shaver-Bilyeu House. Comparing market value to taxable value, the market value is \$790,970, yet the frozen taxable value is only \$166,060. It appears special interest to add an additional compensation program when the current program has not been proven insufficient.
- 5) Historical property requiring Conditional Use to pay for costs fails to show a need. Reasonable investment in maintenance activities is an expected cost that all homeowners accept. Maintenance of a home on large property with a garden can be expensive and is an assumed investment responsibility. Excessive historical costs have yet to be shown and allowing

	<p>Conditional Use for profit appears as special interest.</p> <p>6) Conditional Use profits are not required to be reinvested. The proposed code change fails to ensure that historic properties actually benefit from Conditional Use profits.</p> <p>➤ Michael Brewin, 11225 SW Morgen Ct., Tigard, OR 97223, testified on behalf of himself and his business, SoulJazz, LLC. In reference to Dan Quello saying earlier that this code amendment would be on benefit to the entire city, he disagreed, saying it would be a handout for one property.</p> <p>He said all testimony in favor has been about one property but that the code amendment would affect the whole city. He presented slides of historic properties in Tigard and discussed the disadvantages to applying this conditional use to them, including parking, neighbor proximity, and adequate space issues.</p> <p>Mr. Brewin stated a concern that the August 15, 2006 Council agenda referred to the "Quello House," which is not how the house is listed on the National Register of Historic Places. He also said that the public hearing notice sent out by the City didn't disclose enough details.</p> <p>Mr. Brewin noted that City code enforcement staff is unavailable on evenings and weekends to document abuse.</p> <p>He read a list of 45 reasons to reject the development code amendment, a copy of which is in the City Recorder's office.</p>	
	<p>The Council took a brief break at 9:41 p.m. and reconvened at 9:48 p.m.</p>	
	<p>OPPONENT TESTIMONY CONTINUED –</p> <p>➤ Richard Smith, 16435 SW 93rd, Tigard, OR 97224, submitted photos for the record showing the view from his home towards the Quello property. He said he lives directly behind the Quello property. He noted that several trees were cut down by Mr. Quello and were left on Mr. Smith's property. He said he felt this proposed amendment was just to benefit Mr. Quello and turn his property into a commercial investment. He said the Quellos' have burdened the neighborhood with these parties and it is an annoyance. He expressed concerns about parking.</p>	

➤ Don Manghelli, 16415 SW 93rd Avenue, Tigard, OR, 97224, lives behind the Quello House. He said he and his wife hear everything that goes on in the Quello House yard and he feels he can't mow his lawn or enjoy his own yard when events are going on. He reviewed the history of event use at the Quello House and the impact on the neighbors. He said even limiting events to twelve days a year would mean most summer weekends would be taken up with weddings because no one wants an outdoor wedding at other times of the year. He said this is not compatible with a residential neighborhood.

➤ David Otis, 16465 SW 93rd Avenue, Tigard, OR 97224, said he wants to enjoy his backyard in peace without all the chaos, noting that every sound carries across the gully from the Quello's yard.

➤ Larry Galizio, 16455 SW 93rd Avenue, Tigard, OR, 97224, pointed out that, except for the man testifying tonight who lives next door to Mr. Quello but has an acre in between, everyone testifying in favor of this change lives away from the area. He said the people who are speaking in opposition live closer to the Quello House and would have to live with these changes. He also said it was significant that the Planning Commission voted unanimously, 5-0 against the code changes.

He responded to Mr. Quello's comments that this is not a benefit for himself. He said following that logic, one possibility to consider would be to put all the money earned at the Quello House into an account for all the historic properties to use, which would benefit the community, not just Mr. Quello.

Mr. Galizio said Mr. Quello said this was needed to allow some incentive for his family to continue to live in and maintain this home. He said Oregon taxpayers subsidize them already so it would be redundant and unfair to provide another incentive. on top of what is already provided.

Referring to Mr. Quello's earlier site visit comment, he said the site visit he had requested was not for Council to go to the Quello House, but for Council members to go to Mr. Galizio's or any other neighbor's house to experience what everyone is talking about.

Mr. Galizio asked about accountability. He asked how citizens would know that these funds are being spent on historic preservation.

	<p>He said, "Enough is enough. This is a residential area and I hope you heed the call of the Planning Commission which voted unanimously, 5-0, and oppose this change."</p> <p>Council President Wilson asked if there was anyone else who wanted to speak. There being none, he closed the public hearing.</p> <p>Staff recommendation: Associate Planner Farrelly said staff recommends that if the City Council can find that the proposal is compatible with surrounding residential uses, and provides adequate guidelines for approval, then Council should approve it.</p> <p>Councilor Sherwood said the property is gorgeous but if Council puts this commercial zone change in, the neighbors are not going to be able to live normal lives. She said she was not in favor of overturning the Planning Commission's unanimous vote against it.</p> <p>Councilor Woodruff said he felt Council failed the Community because they couldn't come to a compromise on this. He said both sides made valid points. He said he was taken aback by the strong objections of the neighbors. He said it was troubling that things that happened in the past are clouding the issue now. He said regardless of what decision is made at this point, it would injure people, so he was still deliberating.</p> <p>Council Harding said she was not aware of the issues from the past. It was through the Broadway Rose Theater that she was at an event at Quello House. She said there were very few jewels left in the community. She heard a lot of conflict in the testimony tonight. She said that maybe 200 people at an event may be too many, but 18 events out of 365 days a year is less than 5% of the year. She thought it ludicrous that it was suggested it would take a full-time code compliance officer. She said she feels for both sides.</p> <p>Councilor Sherwood said the difference between wedding events and school or sports events is that no one has to be quiet in their yard during school events.</p> <p>Councilor Harding said that's just the risk Mr. Quello takes. It's not an exclusive use requiring the neighbors to shut down their lives.</p> <p>Council President Wilson said he understands these issues. Just living next to people means you have to tolerate a certain amount. He thought he was the only</p>	
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	<p>Planning Commissioner back when this came before them, to vote in favor of the Quello proposal. It's not just about historic preservation – it's also about people's ability to use a place that is unique. The Quello House is mostly about the grounds, not the interior. It is really about summer use and that is the difficult thing. This is one of the most difficult things he's had to address in his eight years on the Planning Commission and four years on the Council. If you want things to stay as they are, it helps to have a financial incentive. I understand this is about the houses immediately behind the Quellos. He personally would like to see Council send this back. As it is written, there are too many issues. He is not terribly worried about other properties; you could not fit 200 people into the windmill. Fire codes and parking are issues.</p> <p>Councilor Woodruff said the numbers that came up (18 a year, 200 attendees) were not set by the Council. He said he would be comfortable with less. Proceeds from this could pay for overtime for someone from the City to be right there to monitor things. Do whatever is required to send this back for review that makes it less onerous to the neighbors.</p> <p>Council President Wilson asked about the code enforcement issues that were raised, noting that we don't have night code enforcement officers.</p> <p>Community Development Director Coffee said the police could cite for various portions of the Code. There is also a provision in there that it could be revoked for violations and the police could document violations.</p> <p>Councilor Harding asked how it could be re-written without infringing on the Community Development Department's time, not doing a total re-write but adding more restrictions.</p> <p>City Manager Prosser said Council could refer it back to staff for more work but Community Development Director Coffee has identified that it will have an impact on the other priorities that Council has set. He asked, "If staff worked on it, increased restrictions and it was heard again, would there be a different outcome?"</p> <p>Council President Wilson asked if Council would hear appeals of the Hearings Officer's decisions.</p> <p>City Attorney Ramis said the appeals would go to the Council first and then could go to LUBA.</p>	
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	<p>Council expressed disappointment that the opposing groups couldn't come together and work out a compromise prior to the proposed code amendments being prepared.</p>	
<p>6. Legislative Public Hearing Comprehensive Plan Amendment(CP A) 2006-00001/ Development Code Amendment (DCA) 2006-00004- Habitat-Friendly Development Provisions</p>	<p>Council President Wilson opened the public hearing.</p> <p>City Attorney Ramis noted that everyone present in the room at this time was present for the preceding public hearing. He stipulated that the Attorney Statement for Agenda Item 5 would be entered into the record as being the same for Agenda Item 6.</p> <p>Council President Wilson asked if there were any challenges. There were none. No one had signed up to speak on this item.</p> <p>Long Range Planning Manager Bunch gave the staff report. He said staff evaluated all the applicable criteria from the Comprehensive Plan and the Development Code and found that these amendments comply. He said the Planning Commission held a public hearing on October 16, 2006, and recommended approval. Some changes were made to staff's original recommendation and these are now included. He noted that Council adoption of the proposal would 1) fulfill Tigard's agreements with the Tualatin River Basin Partners; 2) comply with Metro functional plan Title 18 and also comply with associated State regulations. He noted that this does not preclude the City from further protecting resources by going through statewide processes established by Goal 5.</p> <p>Council President Wilson opened up the hearing to public testimony. Planning Commission Member Gretchen Buehner said that the density transfer section was removed for further work and will be coming back to Council in early 2007.</p> <p>Councilor Harding noted that Council has discussed this before and while she would like it to be more restrictive, Council needs to move forward.</p> <p>Council President Wilson clarified a comment he made at the November workshop meeting. He said he is not opposed to conservation easements in general but is opposed to applying them to small, private lots, which developers will do to squeeze in another lot when they are otherwise required to have areas set aside for preservation.</p>	<p>Motion by Councilor Woodruff, seconded by Councilor Harding, to approve Ordinance No. 06-20.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Council President Wilson Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Woodruff Yes</p>

	ORDINANCE NO. 06-20 – AN ORDINANCE ADOPTING COMPREHENSIVE PLAN AND DEVELOPMENT CODE AMENDMENTS - CPA 2006-00001 AND DCA 2006-00004 – TO ADD A SIGNIFICANT HABITAT AREAS MAP TO VOLUME 1 OF THE COMPREHENSIVE PLAN AND HABITAT-FRIENDLY DEVELOPMENT STANDARDS TO THE TIGARD COMMUNITY DEVELOPMENT CODE – CHAPTERS 18.360, 18.370, 18.705, 18.715, 18.765, 18.775 AND 18.810.	
7. Council Liaison Reports	Council President Wilson asked if there were any Council liaison reports. Councilor Sherwood said she would defer her report.	Councilor Sherwood will give a report on the NLC Conference at a future meeting.
Adjournment	The meeting was adjourned at 10:57 p.m.	<p>Motion by Councilor Harding, seconded by Councilor Woodruff, to adjourn the meeting.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p> Council President Wilson Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Woodruff Yes </p>

Carol A. Krager
Carol A. Krager, Deputy City Recorder

Attest:

Sydney L. Sherwood

Council President, City of Tigard

Date: January 23, 2007

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